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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 BRETT BRIAN BARNES,

9 Plaintiff,

10 v.

11 NANCY A. BERRYHILL, Acting  
12 Commissioner of Social Security,

13 Defendant.

Case No. C17-5393 RSM

ORDER DISMISSING CASE

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15 The Court, after careful consideration of the Plaintiff's Complaint, the parties' briefs, all  
16 papers and exhibits filed in support and opposition thereto, the Report and Recommendation  
17 (R&R) of the Honorable James P. Donohue, and the balance of the record, does hereby find and  
18 ORDER:

19 (1) On November 30, 2017, Judge Donohue issued his R&R, recommending that the  
20 Court affirm the decision of the Commissioner denying benefits to Mr. Barnes. Dkt. #13. Mr.  
21 Barnes has filed Objections to that R&R. Dkt. #14. The government has replied to those  
22 Objections. Dkt. #15. After review of Plaintiff's Objections and the remainder of the record,  
23 the Court ADOPTS Judge Donohue's Report and Recommendation. In his Objections, Plaintiff  
24 reiterates in large part the arguments made to Judge Donohue. *Compare* Dkt. #14 with Dkt. #11.  
25 Judge Donohue first addressed Plaintiff's argument that the ALJ erred in discounting the medical  
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1 opinion of Dr. Hamilton. As Judge Donohue correctly noted, the ALJ must provide clear and  
2 convincing reasons for rejecting the opinion of a treating or examining physician. Dkt. #13 at  
3 7. In this case, Judge Donohue addressed the reasons provided by the ALJ for discounting Dr.  
4 Hamilton's opinions, many of which Plaintiff did not address.<sup>1</sup> See Dkt. #13 at 8-10. Judge  
5 Donohue concluded that the ALJ provided specific and legitimate reasons for discounting Dr.  
6 Hamilton's opinions, supported by substantial evidence in the record. *Id.* at 10. Nothing in  
7 Plaintiff's Objections persuades the Court that Judge Donohue's conclusion is in error.  
8 Likewise, the Court is not persuaded that Judge Donohue's conclusion with respect to Plaintiff's  
9 subjective testimony is in error. See Dkt. #13 at 10-14. Judge Donohue examined the ALJ's  
10 reasons for discounting Plaintiff's testimony. He correctly noted that it is the province of the  
11 ALJ to determine what weight should be afforded to a claimant's testimony, and that the ALJ's  
12 conclusions must be supported by substantial evidence. Dkt. #13 at 11-12. Judge Donohue then  
13 found that the record supported the ALJ's determination that some of the objective medical  
14 evidence was inconsistent with Plaintiff's testimony, that Plaintiff's limited, conservative  
15 treatment without medication side effects was inconsistent with Plaintiff's testimony, and that  
16 Plaintiff's admission he might have been able to work despite his impairments undermines his  
17 allegation of disability. *Id.* at 12-14. Judge Donohue also concluded that the ALJ's error in  
18 relying on Plaintiff's activities to discount his testimony was harmless given the ALJ's other  
19 findings. *Id.* at 13. Plaintiff has not persuaded this Court to find otherwise.

22 (2) The final decision of the Commissioner is **AFFIRMED** and this case is dismissed  
23 with prejudice.

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26 <sup>1</sup> The Court, like Judge Donohue, also notes that Plaintiff chose not to file a Reply in response to the government's brief.

1 (3) The Clerk of the Court is directed to send copies of this Order to the parties and  
2 to Judge Donohue.

3 DATED this 17<sup>th</sup> day of January 2018.

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5 RICARDO S. MARTINEZ  
6 CHIEF UNITED STATES DISTRICT JUDGE  
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